



Bret Randall
<randall@chapman.com>
>

03/20/2007 04:52 PM

To: Kevin Murray <kmurray@chapman.com>
cc: "Elmer, Mark (ENRD)" <Mark.Elmer@usdoj.gov>,
Peggy Livingston/ENF/R8/USEPA/US@EPA

bcc

Subject: Re: Richardson

Here they are:



Appendix_D.doc



Appendix_E.doc



Appendix_F.doc

Bret

On Mar 20, 2007, at 4:49 PM, Kevin Murray wrote:

I will send them now with the caveat that we are still reviewing them. . . Bret . . . send them over

On Mar 20, 2007, at 4:40 PM, Elmer, Mark (ENRD) wrote:

Soon.

When can we expect to receive appendices referenced in CD?

Sent Using U.S. DOJ/ENRD BES Server

----- Original Message -----

From: Kevin Murray <kmurray@chapman.com>

To: Elmer, Mark (ENRD); Margaret J. (Peggy) Livingston <Livingston.Peggy@epamail.epa.gov>

Sent: Tue Mar 20 18:21:43 2007

Subject: Richardson

Any estimate on when we can have a complete CD to review?

Kevin R. Murray

Chapman and Cutler LLP

312-917-7654

801-320-6754

kmurray@chapman.com

3.27.07 I called Kevin
Murray & left a voice
mail saying I would send
our final staff CD + sow
that we're circulating for
EPA mgmt concurrence,
to day, electronically

Comment on
App: # 2 that
shd not
be lost
&
#5 shd be
for inj
relief not
past costs

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Kevin R. Murray
Chapman and Cutler LLP
312-917-7654
801-320-6754
kmurray@chapman.com

Bret F. Randall
Chapman and Cutler LLP
201 South Main, Suite 2000
Salt Lake City, Utah 84111
Direct: 801-320-6755
Fax: 801-359-8256
randall@chapman.com

APPENDIX D

WHEN RECORDED MAIL TO:

Kevin R Murray, Esq.
Chapman and Cutler LLP
201 South Main, Suite 2000
Salt Lake City, UT 84111

Parcel Nos.

NOTICE OF CONSENT DECREE

Pursuant to this Notice of Consent Decree, ("Notice"), United Park City Mines ("United Park"), a Delaware corporation and owner of certain real property located in Summit County, Utah, as further defined on Exhibit A attached hereto and incorporated herein by reference (the "Property"), hereby provides notice of the matters described herein to all subsequent owners, operators, and other persons who hereafter come to have any interest in the Property as described herein:

1. The Property was originally proposed for inclusion on the National Priorities List ("NPL") on June 24, 1988 but was removed from NPL consideration in February 1991.
2. The Property was re-proposed for the NPL on February 7, 1992 ^{but?} that no action has been taken with regard to this proposed listing.
3. United Park has performed various investigations and studies relating to environmental conditions associated with the Property.
4. The U.S. Environmental Protection Agency adopted on July 6, 2005 a final Record of Decision ("ROD") requiring that certain remedial actions be implemented at the Property.
5. The United States, on behalf of the Administrator of the EPA, filed a complaint in the United States District Court for the District of Utah against United Park (United States of America v. United Park City Mines Company, Civil No. _____) alleging that United Park is a liable party pursuant to Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, and seeking *inter alia*, compensation for its past and future response costs associated with the Property (the "Litigation"). 2 different
cleanup costs,
one for
costs
(resolved) +
one for ROD
(future)?
6. United Park entered into a certain Consent Decree to settle the claims brought in the Litigation, which Consent Decree approved and entered by the Court on _____, _____, 2007 in the Litigation.
7. Pursuant to the Consent Decree, United Park has agreed, among other things, to undertake, perform, and finance certain response actions relating to the Property.

8. Pursuant to the Consent Decree, United Park has agreed to provide the foregoing notice to successors-in-title to the Property.

DATED this ____ day of _____, 2007.

United Park City Mines Company

By: _____
[name]
[title]

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

The foregoing Notice and Easement was subscribed, sworn to and acknowledged before me this ____ day of _____, 2007 by _____, acting in his capacity as _____ of United Park City Mines Company, a Delaware corporation.

NOTARY PUBLIC

My commission expires:

Residing at:

EXHIBIT A

APPENDIX E

Date: _____

Dear Sir or Madam:

As required by Paragraph 9(b) of the RD/RA Consent Decree, this letter shall serve as notice that the Property described in Exhibit A hereto is located within the boundaries of the Richardson Flat Tailings site and is subject to certain environmental terms, covenants and conditions, as contained in the following:

1. the RD/RA Consent Decree for the Richardson Flat Tailings Site, attached hereto as Exhibit B;
2. an easement, granting access rights to the Property to United States Environmental Protection Agency and Utah Department of Environmental Quality, attached hereto as Exhibit C;
3. an environmental covenant containing institutional controls and restrictions on use of the Property, attached hereto as Exhibit D. *any form?*

As a successor-in-title to the Property, the foregoing environmental terms, covenants and conditions may impact your use and enjoyment of the Property and we encourage you to review the requirements these documents prior to your acquisition of any interest in the Property.

Sincerely,

on behalf of United Park City Mines Company

APPENDIX F

WHEN RECORDED MAIL TO:

Kevin R Murray, Esq.
Chapman and Cutler LLP
201 South Main, Suite 2000
Salt Lake City, UT 84111

Parcel Nos.

GRANT OF EASEMENT

Pursuant to this Grant of Environmental Easement ("Easement"), United Park City Mines ("United Park"), a Delaware corporation and owner of certain real property located in Summit County, Utah, as further defined on Exhibit A attached hereto and incorporated herein by reference (the "Property"), hereby grants to the United States of America ("United States") acting through the United States Environmental Protection Agency ("EPA") and the State of Utah acting through the Department of Environmental Quality ("UDEQ") an easement pertaining to the Property pursuant to the terms and conditions described herein.

RECITALS

1. The Property was originally proposed for inclusion on the National Priorities List ("NPL") on June 24, 1988 but was removed from NPL consideration in February 1991;
2. The Property was re-proposed for the NPL on February 7, 1992 ^{but ?} that no action has been taken with regard to this proposed listing;
3. United Park has performed various investigations and studies relating to environmental conditions associated with the Property;
4. The U.S. Environmental Protection Agency adopted on July 6, 2005 a final Record of Decision ("ROD") requiring that certain remedial actions be implemented at the Property;
5. The United States, on behalf of the Administrator of the EPA, filed a complaint in the United States District Court for the District of Utah against United Park (United States of America v. United Park City Mines Company, Civil No. _____) ^{Same} alleging that United Park is a liable party pursuant to Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, and seeking *inter alia*, compensation for its past and future response costs associated with the Property (the "Litigation"); ^{costs or remediation}
6. United Park entered into a certain Consent Decree to settle the claims brought in the Litigation, which Consent Decree approved and entered by the Court on _____, _____, 2007 in the Litigation;

7. Pursuant to the Consent Decree, United Park has agreed, among other things, to undertake, perform, and finance certain response actions relating to the Property;

8. Pursuant to the Consent Decree, United Park has agreed to provide certain access to the Property to EPA and UDEQ as provided herein.

NOW, THEREFORE, United Park hereby grants an easement to the United States and the State of Utah, and their representatives (including contractors), for access at all reasonable times to the Property for the purpose of conducting any activity related to the Consent Decree including, but not limited to, the following activities as further described and defined in the Consent Decree:

- i) Monitoring the Work;
- ii) Verifying any data or information submitted to the United States;
- iii) Conducting investigations relating to contamination at or near the Site;
- iv) Obtaining samples;
- v) Assessing the need for, planning, or implementing additional response actions at or near the Site;
- vi) Assessing implementation of quality assurance and quality control practices as defined in the approved Quality Assurance Project Plans;
- vii) Implementing the Work pursuant to the conditions set forth in Paragraph 85 of the Consent Decree;
- viii) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Defendant or its agents, consistent with Section XXIV of the Consent Decree;
- ix) Assessing Settling Defendant's compliance with this Consent Decree; and
- x) Determining whether the Site or other property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to this Consent Decree.

This Easement shall run with the land and shall be binding upon United Park and its successors and assigns and shall inure to the benefit of the United States and the State of Utah.

DATED this ____ day of _____, 2007.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

United Park City Mines Company

By: _____
[name]
[title]

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

The foregoing Notice and Easement was subscribed, sworn to and acknowledged before me this ____ day of _____, 2007 by _____, acting in his capacity as _____ of United Park City Mines Company, a Delaware corporation.

NOTARY PUBLIC

My commission expires:

Residing at:

EXHIBIT A

APPENDIX F

WHEN RECORDED MAIL TO:

Kevin R Murray, Esq.
Chapman and Cutler LLP
201 South Main, Suite 2000
Salt Lake City, UT 84111

Parcel Nos.

GRANT OF EASEMENT

Pursuant to this Grant of Environmental Easement ("Easement"), United Park City Mines ("United Park"), a Delaware corporation and owner of certain real property located in Summit County, Utah, as further defined on Exhibit A attached hereto and incorporated herein by reference (the "Property"), hereby grants to the United States of America ("United States") acting through the United States Environmental Protection Agency ("EPA") and the State of Utah acting through the Department of Environmental Quality ("UDEQ") an easement pertaining to the Property pursuant to the terms and conditions described herein.

RECITALS

1. The Property was originally proposed for inclusion on the National Priorities List ("NPL") on June 24, 1988 but was removed from NPL consideration in February 1991;
2. The Property was re-proposed for the NPL on February 7, 1992 ^{last} that no action has been taken with regard to this proposed listing;
3. United Park has performed various investigations and studies relating to environmental conditions associated with the Property;
4. The U.S. Environmental Protection Agency adopted on July 6, 2005 a final Record of Decision ("ROD") requiring that certain remedial actions be implemented at the Property;
5. The United States, on behalf of the Administrator of the EPA, filed a complaint in the United States District Court for the District of Utah against United Park (United States of America v. United Park City Mines Company, Civil No. _____) alleging that United Park is a liable party pursuant to Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, and seeking *inter alia*, compensation for its past and future response costs associated with the Property (the "Litigation");
6. United Park entered into a certain Consent Decree to settle the claims brought in the Litigation, which Consent Decree approved and entered by the Court on _____, _____, 2007 in the Litigation;

7. Pursuant to the Consent Decree, United Park has agreed, among other things, to undertake, perform, and finance certain response actions relating to the Property;

8. Pursuant to the Consent Decree, United Park has agreed to provide certain access to the Property to EPA and UDEQ as provided herein.

NOW, THEREFORE, United Park hereby grants an easement to the United States and the State of Utah, and their representatives (including contractors), for access at all reasonable times to the Property for the purpose of conducting any activity related to the Consent Decree including, but not limited to, the following activities as further described and defined in the Consent Decree:

- i) Monitoring the Work;
- ii) Verifying any data or information submitted to the United States;
- iii) Conducting investigations relating to contamination at or near the Site;
- iv) Obtaining samples;
- v) Assessing the need for, planning, or implementing additional response actions at or near the Site;
- vi) Assessing implementation of quality assurance and quality control practices as defined in the approved Quality Assurance Project Plans;
- vii) Implementing the Work pursuant to the conditions set forth in Paragraph 85 of the Consent Decree;
- viii) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Defendant or its agents, consistent with Section XXIV of the Consent Decree;
- ix) Assessing Settling Defendant's compliance with this Consent Decree; and
- x) Determining whether the Site or other property is being used in a manner that is prohibited or restricted, or that may need to be prohibited or restricted, by or pursuant to this Consent Decree.

This Easement shall run with the land and shall be binding upon United Park and its successors and assigns and shall inure to the benefit of the United States and the State of Utah.

DATED this ____ day of _____, 2007.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

United Park City Mines Company

By: _____
[name]
[title]

STATE OF UTAH)
) ss.
COUNTY OF SUMMIT)

The foregoing Notice and Easement was subscribed, sworn to and acknowledged before me this ____ day of _____, 2007 by _____, acting in his capacity as _____ of United Park City Mines Company, a Delaware corporation.

NOTARY PUBLIC

My commission expires:

Residing at:

EXHIBIT A

LEGAL DESCRIPTION

RICHARDSON FLAT - SITE PARCEL 1 JANUARY 23, 2002

A parcel of land located in the east half of Section 2 and Section 1, Township 2 South, Range 4 East, Salt Lake Base and Meridian.

Beginning at a point South 00°44'33" East 2315.11 feet along section line and West 2124.91 feet from the northeast corner of Section 1, Township 2 South, Range 4 East, Salt Lake Base and Meridian; and running thence South 36°45'45" West 616.47 feet; thence South 77°35'22" West 605.69 feet; thence South 27°48'26" West 924.31 feet; thence North 82°38'01" West 1191.60 feet; thence South 49°29'05" West 912.70 feet to a point on the west line of Section 1; thence along section line North 00°34'37" East 241.07 feet; thence South 89°58'53" West 188.10 feet; thence North 19°56'15" West 2478.15 feet to a point on a 1482.41 foot radius curve to the right of which the radius point bears North 70°03'45" East; thence northwesterly along the arc of said curve 466.75 feet through a central angle of 18°02'25"; thence North 14°54'13" East 322.55 feet; thence North 24°31'36" East 280.95 feet; thence North 35°00'22" East 150.75 feet; thence North 30°16'10" East 171.57 feet; thence North 27°39'30" East 146.38 feet; thence North 31°42'44" East 163.77 feet to a point on the southerly right-of-way line of Highway U-189; thence along the southerly right-of-way line of Highway U-189 the following six (6) courses: 1) 853.85 feet along the arc of a 5829.58 foot radius curve to the left (chord bears South 71°03'34" East 853.09 feet) to a right-of-way monument; thence 2) 636.69 feet along the arc of a 5829.58 foot radius curve to the left (chord bears South 78°23'49" East 636.37 feet) to a right-of-way monument; thence 3) South 71°22'30" East 227.84 feet to a right-of-way monument; thence 4) South 81°31'35" East 700.17 feet to a right-of-way monument; thence 5) South 76°56'20" East 501.58 feet to a right-of-way monument; thence 6) South 81°29'38" East 39.69 feet; thence South 32°35'26" East 1843.40 feet to the point of beginning.

Description contains 258.10 acres, more or less.

Kevin,

Here's our proposed language concerning modification of amount of financial assurance, which would replace paragraph 47(a) in the last version:

1. Modification of Amount and/or Form of Performance Guarantee

a) Reduction of Amount of Performance Guarantee. On November 1, 2007, and on November 1 of each year thereafter, Settling Defendant may petition EPA in writing to request a reduction in the amount of the Performance Guarantee(s) provided pursuant to this Section on the basis that it has completed one or more Work Milestones. This request shall identify the Work Milestones that Settling Defendant believes it has completed and shall contain sufficient information to allow EPA to verify the claim. For each Work Milestone that EPA determines has been completed, EPA shall allow Settling Defendant to reduce the amount of the Performance Guarantee(s) required by this Section by the corresponding budgeted cost set forth in the RD/RA Work Plan for that Work Milestone. EPA's agreement pursuant to this provision that a Work Milestone has been completed shall be for the sole purpose of reducing the amount of the Performance Guarantee(s) that Settling Defendant must maintain under this section. In seeking approval for a revised or alternative form of Performance Guarantee, Settling Defendant shall follow the procedures set forth in Paragraph 47(b) of this Consent Decree. If EPA decides to accept such a proposal, EPA shall notify the Settling Defendant of such decision in writing. After receiving EPA's written acceptance, Settling Defendant may reduce the amount of the Performance Guarantee(s) in accordance with and to the extent permitted by such written acceptance. In the event of a dispute, Settling Defendant may reduce the amount of the Performance Guarantee required hereunder only in accordance with a final administrative or judicial decision resolving such dispute. No change to the form or terms of any Performance Guarantee provided under this Section, other than a reduction in amount, is authorized except as provided in Paragraph 47(b) of this Consent Decree.

We've also made a few slight revisions in definition section to reflect that we are taking the SOW route rather than going with a pre-approved RD/RA work plan.

If this looks ok to you, we will be routing decree through our respective managements for comment, so that it can go to you for signature.

Thanks,

Mark

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"Elmer, Mark (ENRD)"
<MElmer@ENRD.USDOJ.GOV>

03/16/2007 01:42 PM AST

To kmurray@chapman.com
cc Peggy Livingston/ENF/R8/USEPA/US@EPA, Kathryn
Hernandez/EPR/R8/USEPA/US@EPA
bcc
Subject Richardson - proposed FA language